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8 **UNITED STATES BANKRUPTCY COURT**  
9 **EASTERN DISTRICT OF WASHINGTON**

10 In re:

11 GIGA WATT, Inc., a  
12 Washington corporation,  
13 Debtor.

Case No. 18-03197 FPC 7

The Honorable Frederick P. Corbit

Chapter 7

14 **CHAPTER 7 TRUSTEE'S MOTION**  
15 **FOR A PRE-FILING REVIEW ORDER**  
16 **AND/OR SANCTIONS AGAINST JUN**  
17 **DAM**

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23 CHAPTER 7 TRUSTEE'S  
24 MOTION FOR A PRE-FILING  
25 REVIEW ORDER/SANCTIONS AGAINST JUN DAM

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## LIST OF EXHIBITS

Documents Filed in Courts Other Than This Court (Other than Appellate Briefs); Documents Filed in this Court Are not Attached as Exhibits

Document Title	Exhibit
D.Ct. ECF No. 4 - Motion for Stay Pending Appeal of Order (i) Approving the Sale of Moses Lake Equipment and Related Relief, (ii) Approving Bid Procedures, District Court, Case No. 2:20-cv-00391-SAB (filed November 2, 2020)	<b>A</b>
D.Ct. ECF No. 14 - Memorandum in Support of Motion for Stay Pending Appeal of Order (i) Approving the Sale of Moses Lake Equipment and Related Relief, (ii) Approving Bid Procedures, District Court, Case No. 2:20-cv-00391-SAB (filed November 30, 2020) (without the approx. 300 pages of exhibits)	<b>B</b>
D.Ct. ECF No. 1 - Class Action Complaint, District Court, Case No. 2:20-cv-00464-SAB (filed December 16, 2020)	<b>C</b>
D.Ct. ECF No. 18 - Order Denying Motions as Moot, Case No. 2:20-cv-00391-SAB (relating to mot. to stay ML Equipment sale) (filed January 21, 2021)	<b>D</b>
BAP ECF No. 20-1 - Memorandum, Dam v. Waldron, U.S. BAP, 9th Cir., Case No. 20-1156 (TNT Sale appeal) (filed January 29, 2021)	<b>E</b>
BAP ECF No. 25 - Notice of Appeal (appeal of TNT Sale Order to 9 <sup>th</sup> Cir.), BAP 9th Cir., Case No. 20-1156 (filed March 2, 2021)	<b>F</b>

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Ct. App. 9th Cir ECF No. 3 - Response to Order to Show Cause, 9th Cir. Court of Appeals, Case No. 21-60016 (TNT Sale appeal) (filed March 30, 2021)	<b>G</b>
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D.Ct. ECF No. 15 - Order Affirming the Bankruptcy Court's Order Granting Appellee's Motion to Dismiss, U.S. Dist. Ct., EDWA, Case No. 20-351 (re dismissal of complaint against Trustee and PLG) (filed July 30, 2021)	<b>I</b>
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D.Ct. ECF No. 61-4 - Stipulation of Settlement, District Court, Case No. 2:20-cv-464-SAB (filed November 29, 2023) (without attached exhibits)	<b>K</b>
D.Ct. ECF No. 65 - Stipulated Dismissal of Consolidated Appeals, District Court, Case No. 2:21-cv-00291-SAB (filed June 28, 2024) together with D.Ct. ECF No. 66, Order Granting Dismissal and Closing File, <i>Dam v. Waldron</i> , U.S. D. Ct. EDWA, Case No. 2:21-cv-00291-SAB (filed August 2, 2024)	<b>L</b>

## I. INTRODUCTION<sup>1</sup>

Jun Dam, working in concert with his confederate, John Winslow, has engaged in a pattern of frivolously and improperly objecting to proposed actions based on the slimmest allegation of ownership. They did this with the TNT Sale and the ML Equipment Sale. They are setting up another round through their objections to PLG's fees.

In its Orders approving the TNT Sale and the ML Equipment Sale, the Court ensured that Mr. Dam and other members of his *ad hoc* committees were provided the opportunity to prove their ownership claims. The Court approved the TNT Sale without prejudice to Mr. Dam's committee setting up a hearing to prove their claim of ownership of the assets sold. But they never did that. Instead, the lawyer quit, the committee dissolved, and Mr. Dam unleashed a torrent of litigation which was so duplicative and flimsy that the only inference reasonably drawn is an intent to harass the Court, the estate, the Trustee, and PLG.

Regarding the ML Equipment Sale, the Court ensured that parties claiming ownership of the ML Equipment would have a fair opportunity to prove their claims of ownership. The Court ordered the Trustee to encumber the sales proceeds pending the presentation of evidence and converted Mr. Dam's claim to an adversary proceeding. No one ever presented evidence. (None exists.) Instead,

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<sup>1</sup> Because the Court is familiar with the facts of this case, this Motion does not define familiar terms such as the White Paper, TNT Sale, ML Equipment Sale, WTT Token Class Action, WTT Token Settlement, PLG, Perkins Adversary or the Automatic Stay Order.

1 Mr. Dam unleashed another torrent of duplicative litigation based on flimsy  
2 argument.

3 Now Mr. Dam wants to open another round of lawfare by objecting to  
4 PLG's contingency fee on the claim of "ownership" of the settlement proceeds. As  
5 he did in his objection to the Trustee's fee application and in his motion for  
6 reconsideration of the TNT Sale Order, Mr. Dam is again using the threat of a  
7 lawsuit to try to stop the Trustee from administering the assets of this estate.

8 Mr. Dam's objection to the PLG fee request is an escalation in his vexatious  
9 tactics because he is threatening to sue to recover the Perkins settlement proceeds  
10 after releasing the estate of all claims relating to the facts of the Perkins litigation  
11 and in violation of the Automatic Stay Order and the automatic stay of section 362  
12 of the Bankruptcy Code. 11 U.S.C. § 362.

13 The Court did not impose sanctions against Mr. Dam the first time he tried  
14 to usurp the estate's claims against Perkins. This Motion states grounds to sanction  
15 him for his second violation, in light of his pattern of vexatious litigation and in  
16 light of the fact that this latest threatened round of litigation is a brazen violation of  
17 the release that he gave to the estate to induce the Trustee to agree to a \$3 million -  
18 \$4.5 million bifurcated settlement with Perkins.

19 The burden of Mr. Dam's frivolous and harassing litigation has already  
20 impacted the Debtor's creditors causing the estate to incur attorneys' fees. His  
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1 latest threatened round of litigation will further diminish the funds Mr. Waldron  
2 might use to pay creditors.

3 A pre-filing Order and monetary sanctions will serve the best interests of the  
4 estate and its creditors. The Court has given Mr. Dam all the deference and leeway  
5 he is due. Mr. Dam established a track record of harassing, frivolous, and  
6 burdensome litigation, and now should live with its consequences.

## 7 II. RELIEF SOUGHT

8 The Trustee proposes that, in a pre-filing order, the court require Mr. Dam to:  
9 (a) file an application seeking leave to file any pleading in the bankruptcy case,  
10 including any adversary proceeding; (b) attach to any such application a copy of  
11 the pleading he wishes to file and a copy of the pre-filing order; (c) support any  
12 such application with a declaration attesting under penalty of perjury that the  
13 matters addressed by the proposed pleading: (i) have not previously been raised or  
14 disposed of by any court; (ii) that Mr. Dam has conducted a reasonable  
15 investigation into the facts supporting the relief he wishes to seek or the arguments  
16 he wishes to make; and (iii) that such investigation supports the relief or  
17 arguments; and (d) any declaration be based on admissible evidence and detail the  
18 factual basis for the relief or arguments. These terms are consistent with a pre-  
19 filing order upheld by the Ninth Circuit's Bankruptcy Appellate Panel in *In re*  
20 *Bertran*, No. 4:12-BK-501-FC, 2018 WL 1704306, at \*7 (B.A.P. 9th Cir. Apr. 6,  
21 2018).

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1 Following submission of such application and declaration, the court would  
2 review those materials and decide whether any relief Mr. Dam wishes to seek or  
3 whether any arguments he might wish to make might have merit. If the court  
4 determines they lack merit, it would deny the application. If the court determines  
5 they might have merit, it would grant the application and instruct Mr. Dam to file  
6 the proposed pleading and notice it for hearing in due course.

7 The Trustee requests that the court exempt from the foregoing procedure any  
8 notice of appeal that Mr. Dam might file with respect to this order.

9 In the event that the Court is not inclined to enter a pre-filing order or in  
10 addition to the pre-filing order, the Trustee requests monetary sanctions pursuant  
11 to 28 U.S.C. § 1927 which provides that:

12 Any attorney or other person admitted to conduct cases  
13 in any court of the United States or any Territory thereof  
14 who so multiplies the proceedings in any case  
15 unreasonably and vexatiously may be required by the  
court to satisfy personally the excess costs, expenses, and  
attorneys' fees reasonably incurred because of such  
conduct.

16 *Id.* Under Ninth Circuit law, section 1927 may also be used to impose costs and  
17 attorney's fees on *pro se* litigants. *See e.g., Wages v. I.R.S.*, 915 F.2d 1230, 1235-  
18 36 (9<sup>th</sup> Cir. 1990) (*citing Wood v. Santa Barbara Chamber of Commerce, Inc.*, 699  
19 F.2d 484, 485-86 (9<sup>th</sup> Cir. 1993) (*cert denied*), 465 U.S. 1080, 104 S. Ct. 1445, 79  
20 L.Ed.2d 765 (1984).

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1 Relief under 28 U.S.C. § 1927 requires a finding of bad faith, which is a  
2 subjective standard that may be met with knowing or reckless conduct. *See Pac.*  
3 *Harbor Capital, Inc. v. Carnival Air Lines, Inc.*, 210 F.3d 1112, 118 (9th Cir.  
4 2000). As set forth in detail below, Mr. Dam never presented evidence to support  
5 the claim that he or others owned the debtor's facilities and equipment, even after  
6 the Court explained the procedure necessary to establishing their claims in an  
7 adversary proceeding. Instead of presenting evidence, he filed motions, objections,  
8 a complaint and appeals rehashing failed arguments and attacking the Trustee and  
9 PLG. Now is teeing up another round of vexatious litigation with an allegation of  
10 ownership that violates the Automatic Stay Order and the WTT Token Settlement  
11 Agreement.

12 As an alternative to or in addition to a pre-filing review order, the Trustee  
13 requests that the estate be reimbursed for (1) all fees paid to date to PLG relating to  
14 Jun Dam's vexatious litigation in this case, adversary proceedings and related  
15 appeals, (2) all fees incurred in the chapter 11 case relating to Jun Dam's vexatious  
16 litigation and (3) all fees incurred with respect to this Motion and Mr. Dam's  
17 objection to PLG's fees.

### 18 III. APPLICABLE LAW AND FACTORS

19 A federal court has the power to manage vexatious litigants. *See Molski v.*  
20 *Evergreen Dynasty Corp, et al*, 500 F.3d 1047, 1057 (9th Cir. 2007), *en banc*

1 *hearing denied*, 521 F.3d 1215 (9th Cir. 2008) (“While a person has a right to  
2 access the courts, such is not a license to abuse the judicial process and treat the  
3 courts merely as a tool to abuse others.”). *See also In re Singh*, 551 B.R. 54  
4 (Bankr. E.D. Cal. 2016):

5           The abusive filing of bankruptcy petitions, motions, and  
6           adversary proceedings for purposes other than as allowed  
7           by law diminishes the quality of and respect for the  
8           judicial system and laws of this country.

9 *Id.*, at 71. *See In re Rainbow Magazine, Inc.*, 77 F.3d 278 (9th Cir. 1996). Whether  
10 to grant the motion for a pre-filing review order rests within the Court’s discretion.  
11 *De Long v. Hennessey*, 912 F.2d 1144, 1146 (9th Cir. 1990). *Accord In re*  
12 *Koshkalda*, 622 B.R. 749, 757–58 (B.A.P. 9th Cir. 2020).

13           In the Ninth Circuit, before a court may enter a pre-filing order, the court  
14 must (1) give notice to the litigant and an opportunity to be heard before the order  
15 is entered; (2) compile an adequate record for review; (3) make substantive  
16 findings regarding the frivolous or harassing nature of the plaintiff’s litigation; and  
17 (4) narrowly tailor the pre-filing order to closely fit the specific vice encountered.  
18 *Molski*, 500 F.3d at 1058. The first two requirements are procedural. They “define  
19 ‘[a] specific method or course of action’ that district courts should use to asses

20                           [*This Motion continues on the following page.*]  
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1 whether to declare a party a vexatious litigant and enter a pre-filing order.” *Id.*, 500  
2 F.3d at 1057-58 (*quoting* Black's Law Dictionary 1241 (8th ed. 2004)). The latter  
3 two requirements are substantive. They:

4           help the district court define who is, in fact, a ‘vexatious  
5           litigant’ and construct a remedy that will stop the  
6           litigant’s abusive behavior while not unduly infringing  
7           the litigant’s right to access the courts.”

7 *Id.*, 500 F.3d 1058.

8 **A. This Motion Meets the Requirements for a Pre-Filing Review Order.**

9 ***1. Notice Is Adequate***

10 The Trustee is serving this motion on Mr. Dam, who is represented by  
11 counsel. Mr. Dam may file a written response. This is sufficient and adequate  
12 notice. *Molski*, 500 F.3d at 1058-59. *See Pac. Harbor Capital, Inc. v. Carnival Air*  
13 *Lines, Inc.*, 210 F.3d 1112, 1118 (9th Cir. 2000) (holding, in a case involving  
14 sanctions levied against an attorney, that “an opportunity to be heard does not  
15 require an oral or evidentiary hearing on the issue,” but instead that “[t]he  
16 opportunity to brief the issue fully satisfies due process requirements”).

17 Under these circumstances, Mr. Dam will receive adequate notice of the  
18 relief sought and an adequate opportunity to oppose it.

19 ***2. The Record Is Adequate***

20 For purposes of a pre-filing order, “[a]n adequate record for review should  
21 include a listing of all the cases and motions that led the [court] to conclude that a  
22

vexatious litigant order was needed.” *De Long*, 912 F.2d at 1147. The Motion identifies the many contested matters and other disputes raised or caused by Mr. Dam over the past four years.

The Trustee submits the following list of filings by Mr. Dam that support a pre-filing order:

<b><u>Filing</u></b>	<b>Court</b>
<b>1.</b> <u>ECF No. 547</u> - Application of WTT Token Holders and Miner Owners for Administrative Expense and for Declaratory Relief (filed April 10, 2020)	This Court, Main Case
<b>2.</b> <u>ECF No. 592</u> - Response of WTT Token Holders and Miners to Trustee’s Motion for Order Approving Sale of TNT Facility and Trailer Equipment Free and Clear of Liens (filed May 7, 2020)	This Court, Main Case
<b>3.</b> <u>ECF No. 1</u> - Complaint for Breach of Fiduciary Duty; Professional Negligence; Unjust Enrichment (filed June 5, 2020)	This Court, <i>Dam v. Waldron, et al</i> , Adv. Proc. No. 20-80020
<b>4.</b> <u>ECF No. 610</u> - Motion to Request Reconsideration of Order Approving Sale of TNT Facility and Trailer Equipment Free and Clear of Liens (filed June 5, 2020)	This Court, Main Case

<b><u>Filing</u></b>	<b>Court</b>
<b>5.</b> <u>ECF No. 626</u> - Notice of Appeal and Statement of Election (Order Approving TNT Sale) (BAP appeal) (filed June 25, 2020)	This Court, Main Case
<b>6.</b> <u>AP ECF No. 10</u> - Amended Complaint for Breach of Fiduciary Duty; Professional Negligence; Unjust Enrichment; Breach of Contract (filed July 23, 2020)	This Court, Adv. Proc. No. 20-80020
<b>7.</b> <u>BAP ECF No. 6</u> - Appellant's Opening Brief (BAP appeal of TNT Sale Approval Order) (filed August 3, 2020)	BAP 9 <sup>th</sup> Cir., Case No. 20-1156
<b>8.</b> <u>ECF No. 661</u> - Objection to Trustee's (1) Application for Award of Compensation and (2) Motion for an Order Authorizing Payment of Previously Awarded But Unpaid Compensation (filed August 4, 2020)	This Court, Main Case
<b>9.</b> <u>ECF No. 675</u> - Motion to Request Reconsideration of Order Awarding Compensation for Services Rendered Pursuant to 11 USC § 330 or § 331 (filed August 18, 2020)	This Court, Main Case
<b>10.</b> <u>AP ECF No. 18</u> - Motion for District Court to Withdraw the Bankruptcy Reference, Adv. Proc. No. 20-80020 (filed August 24, 2020)	This Court, <i>Dam v. Perkins</i> , APN 20-80020

<b><u>Filing</u></b>	<b>Court</b>
<b>11. <u>AP ECF No. 19</u> - Motion for Leave of Court to Sue Trustee and Counsel (filed August 24, 2020)</b>	This Court, <i>Dam v. Perkins</i> , APN 20-80020
<b>12. <u>AP ECF No. 20</u> - Response to Motion of Mark D. Waldron, Pamela M. Egan, and the Potomac Law Group to Dismiss Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(1) and (6) (filed August 24, 2020)</b>	This Court, <i>Dam v. Waldron</i> , Adv. Proc. No. 20-80020
<b>13. <u>BAP ECF No. 13</u> - Appellant's Reply Brief (BAP appeal of TNT Sale Approval Order) (filed August 27, 2020)</b>	BAP 9 <sup>th</sup> Cir., Case No. 20-1156
<b>14. <u>AP ECF No. 30</u> - Notice of Appeal and Statement of Election (appeal to District Court of Order dismissing Complaint against the Trustee and PLG) (filed September 28, 2020)</b>	This Court, <i>Dam v. Waldron</i> , Adv. Proc. No. 20-80020
<b>15. <u>ECF No. 753</u> - Objection to Motion (i) Approving the Sale of Moses Lake Equipment and Related Relief, (ii) Approving Bid Procedures (iii) Shortening Time to Object (filed October 8, 2020)</b>	This Court, Main Case

<b><u>Filing</u></b>	<b>Court</b>
<b>16. <u>ECF No. 758</u> - Application of WTT Token Holders and Miner Owners for Administrative Expense and for Declaratory Relief (filed October 15, 2020)</b>	This Court, Main Case
<b>17. <u>ECF No. 769</u> - Motion for Stay Pending Appeal of Order (i) Approving the Sale of Moses Lake Equipment and Related Relief, (ii) Approving Bid Procedures (filed October 22, 2020)</b>	This Court, Main Case
<b>18. <u>ECF No. 770</u> - Notice of Appeal and Statement of Election (appeal of ML Equipment Sale Approval Order) (filed October 22, 2020)</b>	This Court, Main Case
<b>19. <u>D. Ct. ECF No. 4</u> - Motion for Stay Pending Appeal of Order (i) Approving the Sale of Moses Lake Equipment and Related Relief, (ii) Approving Bid Procedures (filed November 2, 2020)</b>	District Court, Case No. 2:20-cv-00391-SAB
<b>20. <u>D. Ct. ECF No. 14</u> - Memorandum in Support of Motion for Stay Pending Appeal of Order (i) Approving the Sale of Moses Lake Equipment and Related Relief, (ii) Approving Bid Procedures (filed November 30, 2020)</b>	District Court, Case No. 2:20-cv-00391-SAB



<b><u>Filing</u></b>	<b>Court</b>
<b>21.</b> <u>ECF No. 831</u> - Notice of Motion for Stay Pending Appeal of Order (i) Approving the Sale of Moses Lake Equipment and Related Relief, (ii) Approving Bid Procedures (filed December 8, 2020)	This Court, Main Case
<b>22.</b> <u>D. Ct. ECF No. 1</u> - Class Action Complaint (filed December 16, 2020)	District Court, Case No. 2:20- cv-00464-SAB
<b>23.</b> <u>D. Ct. ECF No. 17</u> - Appellant's Opening Brief (ML Equipment Sale appeal) (filed January 19, 2021)	District Court, Case No. 2:20- cv-00391-SAB
<b>24.</b> <u>D.Ct. ECF No. 9</u> - Appellant's Opening Brief (appeal of dismissal of amended complaint) (filed January 29, 2021)	District Court, Case No. 2:20- cv-00351-SAB
<b>25.</b> <u>BAP ECF No. 25</u> - Notice of Appeal (appeal of BAP's affirmance of TNT Sale Order) (filed March 2, 2021)	BAP 9 <sup>th</sup> Cir., Case No. 20- 1156
<b>26.</b> <u>Ct. App 9<sup>th</sup> Cir ECF No. 3</u> - Response to Order to Show Cause (filed March 30, 2021)	9 <sup>th</sup> Cir. Court of Appeals, Case No. 21-60016

<b><u>Filing</u></b>	<b>Court</b>
<b>27.</b> <u>D.Ct. ECF No. 37</u> - Appellant's Brief (appeal of Automatic Stay Order) (filed June 9, 2022)	District Court, <i>Dam v. Waldron</i> , Case No. 2:21-cv-00291-SAB
<b>28.</b> <u>D.Ct. ECF No. 61-4</u> - Stipulation of Settlement (filed November 29, 2023)	District Court, <i>Dam v. Perkins</i> , Case No. 2:20-cv-464-SAB
<b>29.</b> <u>D.Ct. ECF No. 65</u> - Stipulated Dismissal of Consolidated Appeals (filed June 28, 2024)	District Court, <i>Dam v. Waldron</i> , Case No. 2:21-cv-00291-SAB
<b>30.</b> <u>ECF No. 1048</u> - Objection to First and Final Contingency Fee Application of the Potomac Law Group PLLC (Perkins Adversary Proceeding) (filed August 22, 2024) (filed by Jun Dam)	This Court, Main Case
<b>31.</b> <u>ECF No. 1049</u> - Declaration of Jun Dam in Support of Objection to Contingency Fee Application (filed August 22, 2024)	This Court, Main Case

<b><u>Filing</u></b>	<b>Court</b>
<b>32. <u>ECF No. 1051</u> - Objection to Order Awarding Compensation for Services Rendered and Reimbursement of Expenses Pursuant to 11 U.S.C. § 330 or § 331, and Approving the Payment of Bank Fees (filed August 23, 2024) (filed by John Winslow)</b>	This Court, Main Case

***3. Mr. Dam's Litigation History Entails Vexatious, Harassing and Duplicative Filings***

To decide whether a litigant's actions are frivolous or harassing, the court must "look at both the number and content of the filings as indicia of the frivolousness of the litigant's claims...The plaintiff's claims must not only be numerous, but also patently without merit." *Molski*, 500 F.3d at 1059. As an alternative to the finding of frivolousness, a pattern of harassment can justify sanctions. *De Long*, 912 F.2d at 1148.

Furthermore, the Ninth Circuit considers the Second Circuit five-factor test to be a "helpful framework" in evaluating factors number 3 and 4. These factors are:

(1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of prevailing?; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel;

1 and (5) whether other sanctions would be adequate to  
2 protect the courts and other parties.”

3 *Molski*, 500 F.3d at 1058, *citing Safir v. United States Lines, Inc.*, 792 F. 2d 19, 24  
4 (2nd Cir. 1986).

5 Mr. Dam’s numerous, frivolous, harassing, duplicative filings span the  
6 dockets of four courts (this Court, the District Court, the BAP, and the Court of  
7 Appeals 9<sup>th</sup> Circuit). They all turn on the same false claim: he owns something, be  
8 it the TNT Facility, the ML Equipment, or now, the Perkins settlement proceeds.  
9 He tees up this false issue to provide a platform from which he can harass this  
10 estate. The following narrative summarizes Mr. Dam’s abusive tactics.

11 In April 2020, an *ad hoc* committee acting, through an attorney and  
12 consisting of Mr. Dam, Mr. Winslow, and other asserted WTT Token and miner  
13 purchasers, filed an administrative claim allegedly arising from the Trustee’s use  
14 of the Debtor’s facilities. Application of WTT Token Holders and Miner Owners  
15 for Administrative Expense and for Declaratory Relief, filed April 10, 2020, ECF  
16 No. 547. This committee also objected to the TNT sale alleging ownership of the  
17 facility. *Response of WTT Token Holders and Miners to Trustee’s Motion for*  
18 *Order Approving Sale of TNT Facility and Trailer Equipment Free and Clear of*  
*Liens*, filed on May 7, 2020, ECF No. 592.

19 Neither Mr. Dam nor anyone in this group intervened when the Trustee was  
20 suing David Carlson to recover the facility for the benefit of the estate. Neither did  
21 anyone object when the Trustee settled that dispute.

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1 The Court approved the sale without prejudice to the administrative claim.  
2 *Order Approving: (i) Sale of TNT Facility and Trailer Equipment Free and Clear*  
3 *of all Liens, Claims and Interests, etc.*, filed on May 19, 2020 (ECF No. 602) (the  
4 “TNT Sale Order”).

5 After the TNT Sale Order was entered, the ad hoc committee’s lawyer  
6 withdrew and the committee dissolved. Mail sent to the committee’s address is  
7 returned as undeliverable. *See Egan Declaration*. Instead of proving the claim as  
8 the Court encouraged the *ad hoc* committee to do, Mr. Dam unleashed rounds of  
9 frivolous, harassing, repetitive litigation.

10 Mr. Dam moved for reconsideration of the TNT Sale Approval Order  
11 rehashing previously rejected arguments and stating his intent to sue the Trustee  
12 and PLG for alleged wrongdoing. *Motion to Request Reconsideration of Order*  
13 *Approving Sale of TNT Facility and Trailer Equipment Free and Clear of Liens*,  
14 filed on June 5, 2020, ECF No. 610).

15 The Court denied Mr. Dam’s motion for reconsideration of the TNT Sale  
16 Approval Order, Order Denying Motion for Reconsideration, filed on June 18,  
17 2020, ECF No. 624. Mr. Dam then filed a late appeal of the TNT Sale Approval  
18 Order, (Notice of Appeal, ECF No. 626), which the BAP treated as an appeal of  
19 the reconsideration order. Regarding Mr. Dam’s allegations of wrongdoing by the  
20 Trustee and PLG, the BAP held:

21 The bankruptcy court properly rejected this argument  
22 because ***Mr. Dam offered only allegations, and no***

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1 *evidence, of misconduct. Based on this complete failure*  
2 *of proof*, the court did not abuse its discretion in rejecting  
Mr. Dam's arguments concerning misconduct and fraud.

3 Memorandum, *Dam v. Waldron*, U.S. BAP, 9<sup>th</sup>. Cir., Case No. 20-1156, filed on  
4 January 29, 2021, BAP ECF No. 20-1 at 12, attached hereto as **Exhibit E**  
5 (Emphasis added.) Regarding his other arguments, the BAP stated:

6 *Nearly all of Mr. Dam's arguments on appeal are ones*  
7 *that he could have made, or that the committee he*  
8 *chaired did make, in opposition to the Sale Motion.* The  
bankruptcy court correctly refused to allow Mr. Dam to  
relitigate the Sale Order.

9 *Id.*, BAP ECF No. 20-1 at 11, **Exh. E**. Mr. Dam appealed this decision, filing his  
10 Notice of Appeal one day after the appellate deadline. Notice of Appeal, *Dam v.*  
11 *Waldron*, U.S. BAP, 9<sup>th</sup> Cir., filed on March 2, 2021, ECF No. 25, attached hereto  
12 as Exhibit F. Since he had failed to ask for permission to file a tardy Notice of  
13 Appeal and the deadline to use that safe harbor had passed, the Court of Appeals,  
14 after briefing on the lateness issue, dismissed the TNT Sale Appeal for lack of  
15 jurisdiction. *Order*, U.S. Ct. App., 9<sup>th</sup> Cir., App. Case No. 21-60016, filed on June  
16 11, 2021, Ct. App. 9<sup>th</sup> Cir. ECF No. 6, **Exhibit H**.

17 *[This Motion continues on the following page.]*  
18  
19  
20  
21  
22

1 On the same day that Mr. Dam filed his frivolous motion for reconsideration  
2 of the TNT Sale Order, Mr. Dam filed a complaint against the Trustee and PLG  
3 seeking \$2.836 million in damages allegedly arising from:

- 4 1. the David Carlson settlement, although the Court had approved this  
5 settlement and he had neither objected to the settlement nor intervened to  
6 raise his new vague allegation that he owned the TNT Facility;
- 7 2. the sale of the TNT Facility, which this Court had approved;
- 8 3. the Trustee's operation of the Debtor's facilities, pursuant to Court  
9 Orders;
- 10 4. the Trustee's refusal to sue the Douglas County Public Utility District  
11 ("DC PUD") or to stipulate to the Official Committee of Unsecured  
12 Creditors suing the DC PUD, and
- 13 5. PLG's statements that the WTT token holders could be considered  
14 equity holders.

15 Complaint, *Dam v. Waldron*, Adv. Proc. No. 20-80020, filed on June 5, 2020, ECF  
16 No. 1. He later amended the complaint to almost double his damages from \$2.836  
17 to \$5.391 million. Amended Complaint, Adv. Proc. No. 20-80020, filed on July  
18 23, 2020, ECF No. 10. In the amended complaint, Mr. Dam alleged that the White  
19 Paper was a contract to which he was a party and that the Trustee and PLG had  
20 breached this contract. The amended complaint was 182 pages (including exhibits).

1 In an effort to further harass the Trustee, Mr. Dam and his cohort objected to  
2 the Trustee's fee application, arguing that the Trustee should not be paid before his  
3 amended complaint against the Trustee was resolved. *Objection to Trustee's (1)*  
4 *Application for Award of Compensation, etc.*, filed August 4, 2020, ECF No. 661.  
5 The Court approved the amount requested by the Trustee but did not authorize  
6 payment at that time. (ECF No. 669). Incredibly, Mr. Dam filed a motion to  
7 reconsider this Order. (ECF No. 675.) This Court denied this motion stating:

8 The Motion raises no new arguments for this court to  
9 consider, as the only argument in the Motion cites to Mr.  
10 Dam's Objection, which has already been fully  
11 considered and decided.

12 Mr. Dam's request for Mr. Waldron to submit additional  
13 information regarding time he expended and work he  
14 performed places an unnecessary burden on Mr.  
15 Waldron.

16 As a Trustee, Mr. Waldron's compensation is determined  
17 pursuant to 11 U.S.C. § 326(a), so a detailed accounting  
18 is not necessary to award him compensation for his work.

19 . . .

20 *Order Denying Debtor's Motion for Reconsideration*, filed on August 24, 2020,  
21 ECF No. 684 at 1, ¶¶ 2-4.

22 Back in the adversary proceeding against the Trustee and PLG, Mr. Dam  
23 filed a 39-page response to the Trustee and PLG's motion to dismiss his amended  
24 complaint, *Response to Motion of Mark D. Waldron, Pamela M. Egan, and the*  
25 *Potomac Law Group to Dismiss Amended Complaint, etc., Dam v. Waldron*, Adv.  
Proc. No. 80-20020, filed on August 24, 2020, AP ECF No. 20. He also moved to

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1 withdraw the reference. *Motion for District Court to Withdraw the Bankruptcy*  
2 *Reference, Dam v. Waldron*, Adv. Proc. No. 20-80020, filed on August 24, 2020),  
3 Adv. Proc. No. 20-80020, ECF No. 18. In this motion, he claimed that he needed  
4 “an Article III court to protect his individual liberty.” *Id.* at 8:13-14. And in  
5 explaining his preference for an Article III judge over an Article I judge, he wrote,  
6 “Article I judges that are creations of the legislature may be more likely to support  
7 any statutory securities laws.” *Id.*, at 9:1-2.

8 On the same day that Mr. Dam filed his candid explanation for wanting to  
9 leave the Bankruptcy Court, he also filed a motion for leave to sue the Trustee in  
10 the District Court. *Motion for Leave of Court to Sue Trustee and Counsel, Dam v.*  
11 *Waldron*, Adv. Proc. No. 20-80020, filed on August 24, 2020, ECF No. 19. The  
12 Motion begins with a quote from Chief Justice Marshall, “The very essence of  
13 civil liberty consists in the right of every individual to claim the protections of the  
14 laws whenever he receives an injury.” *Id.* at 3:9-11. Mr. Dam has not claimed the  
15 protections of the laws. He has engaged in four years of frivolous, harassing and  
16 repetitive filings which have cost this estate time and attorneys fees to the  
17 detriment of honest creditors who have been waiting six years for a distribution.

18 On September 17, 2020, the Court dismissed Mr. Dam’s amended complaint  
19 against the Trustee and PLG for failure to state a claim. *Order Granting*  
20 *Defendant’s Motion to Dismiss*, Adv. Pro. N. 20-80020, ECF No. 28. This decision  
21 mooted the motions to withdraw the reference and for leave to sue the Trustee in  
22

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1 the District Court. Mr. Dam appealed the Court's dismissal of his amended  
2 complaint against the Trustee and PLG. The District Court affirmed the  
3 Bankruptcy Court's dismissal. *Order Affirming the Bankruptcy Court's Order*  
4 *Granting Appellee's Motion to Dismiss*, U.S. Dist. Ct., EDWA, Case No. 20-351,  
5 dated July 30, 2021, D. Ct. ECF No. 15, attached hereto as **Exhibit I**.

6 As Mr. Dam's appeal to the BAP of the TNT Sale Approval Order and his  
7 appeal to the District Court of the dismissal of his adversary proceeding were  
8 percolating, Mr. Dam opened a third front: this time centered on the ML  
9 Equipment Sale. First, he and a group of alleged WTT Token and miner called into  
10 the hearing and disrupted it with loud interruptions. In response, the Court  
11 postponed the hearing, which was Mr. Dam's intent.

12 Then, Jun Dam and a constellation of parties, including John Winslow, filed  
13 an Objection to the sale of the ML Equipment asserting without a shred of  
14 evidence and despite the dismissal of his amended complaint that "[t]he Trustee  
15 and counsel have continued to commit acts of theft and conversion." *Objection to*  
16 *Motion (i) Approving the Sale of Moses Lake Equipment, etc.*, filed on October 8,  
17 2020, ECF No. 753 at 2:1. He also claimed ownership of the equipment on behalf  
18 of third parties. He admitted that he had no ownership interest. As with the TNT  
19 sale, he presented no evidence of ownership.

20 The Court approved the ML Equipment Sale finding that it was made in  
21 good faith. The Court also ordered the Trustee to "hold the [ML Equipment] Sale  
22

1 proceeds until further Order of this Court so that the ownership rights of creditors  
2 in the property sold, if any will, attach to the sales proceeds.” *Order: (i) Approving*  
3 *the Sale of Moses Lake Equipment and Related Relief, (ii) Approving Bid*  
4 *Procedures, and (iii) Shortening Time to Object*, filed on October 20, 2020, ECF  
5 765 at 4:10-12. Accordingly, the Trustee is holding the \$112,000 sales proceeds.

6 Furthermore, the Court made a docket entry with respect to the  
7 administrative claim asserting ownership of the ML Equipment. The docket entry  
8 provided that the administrative claim contested matter would be converted to an  
9 adversary proceeding. Referring to the Order that the Court would enter, the docket  
10 entry reads:

11 The order shall recite that the Motion for Administrative  
12 Expenses will be considered the complaint in an  
13 adversary proceeding upon Mr. Dam filing a case cover  
14 sheet, paying the filing fee, and attaching the Motion to  
15 the case cover sheet. The trustee’s Objection will  
constitute the answer. The other parties who signed off  
on the Motion will need to commence their own  
proceeding which the judge may consolidate later for  
administrative purposes.

16 ECF 844, filed on December 17, 2020. On December 22, 2020, the Court entered  
17 its *Order Converting Application for Administrative Expenses and Declaratory*  
18 *Relief to an Adversary Proceeding*, providing:

19 Upon the entry of this Order, if Mr. Dam wants to pursue  
20 his demands set forth in the Application [for  
21 administrative expense], he must file an adversary case  
22

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cover sheet, with the Application attached hereto, and pay the \$350 filing fee.

*Id.*, ECF No. 846 at 2, ¶ 3. The Order also prohibited Mr. Dam from representing others in court without a law license. *Id.*, at ¶ 5.

As with the administrative claim asserting ownership of the TNT equipment, Jun Dam and his committee made no effort to submit proof pursuant to this procedure. Rather than present their evidence in an adversary proceeding as invited by the Court, Mr. Dam, Mr. Winslow and other putative ML Equipment owners unleashed frivolous litigation rehashing arguments that this Court had earlier rejected and attacking the Trustee and PLG.

Mr. Dam and his cohort appealed the Order approving the ML Equipment Sale. Notice of Appeal and Statement of Election, filed on October 22, 2020, ECF No. 770. They also filed two motions to stay the ML Equipment Sale pending appeal: one in this Court (ECF No. 769) and one in the District Court (D. Ct. Case No. 2:20-cv-00391-SAB, D.Ct. ECF No. 4, **Exh. A**). The motions were signed by Mr. Dam, Mr. Winslow and approximately 30 other putative ML Equipment owners.

Mr. Dam did not file a notice of hearing regarding the first motion to stay the ML Equipment Sale until two weeks after the sale had closed. *See Notice of Motion for Stay Pending Appeal of Order (i) Approving the Sale of Moses Lake Equipment and Related Relief, (ii) Approving Bid Procedures*, filed on December 8, 2020 (ECF No. 831); *Chapter 7 Trustee's Report of Sale of the Moses Lake*

1 *Inventory/ Equipment*, filed on October 23, 2020 (ECF No. 776). Mr. Dam filed  
2 his second motion after the sale had closed. *Motion for Stay Pending Appeal of*  
3 *Order (i) Approving the Sale of Moses Lake Equipment, etc.*, D.Ct. Case No. 2:20-  
4 cv-00391-SAB, filed on November 2, 2020, D.Ct. ECF No. 4, attached hereto as  
5 **Exhibit A**, and supporting memorandum, filed almost a month later on November  
6 30, 2024, in the same case, D.Ct. ECF No. 14, attached hereto as **Exhibit B**  
7 (without the approximately 300 pages of exhibits with which Mr. Dam burdened  
8 the District Court)

9 At oral argument on his motion to stay the ML Equipment Sale filed in this  
10 Court, Mr. Dam raised new, late objections to the ML Equipment Sale. This Court  
11 held:

12 These late objections included an objection to the form of  
13 the order approving the sale and an objection to the  
14 Trustee's selection of attorney. Notwithstanding the  
15 failure to timely raise and provide notice of these new  
complaints, the new objections provide no basis for  
granting the Motion.

16 *Id.* at 5, ¶ 16. Both Courts dismissed these motions. In dismissing Mr. Dam's  
17 motion, this Court stated:

18 As a result of the consummation of the sale of the  
19 equipment before Mr. Dam even noted the Motion for  
20 hearing, the Motion was moot. Even if the Motion was  
21  
22

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timely filed, Mr. Dam presented no evidence that would justify a stay.

*Order Denying Motion for Stay*, filed on December 11, 2020, ECF No. 836 at 3,

¶ 8. The District Court also dismissed the motion as moot. *Order Denying Motions as Moot*, Case No. 2:20-cv-00391-SAB, D. Ct. ECF No. 18, filed on January 21, 2021, attached hereto as **Exhibit D**.

Because the sale closed before the courts could hear the motion, the motions were futile, suggesting that the point was not to obtain a stay, but to burden two courts and this estate with needless litigation.

While fending off the frivolous and harassing ML Equipment Sale filings, the Trustee diligently investigated and developed the case against Perkins. On November 18, 2020, the Trustee commenced the Perkins Adversary. Three weeks later, Mr. Dam filed a copycat complaint. Class Complaint, *Dam v. Perkins*, US D.Ct. EDWA, Case No. 2:20-cv-00464-SAB, ECF No. 1, attached as **Exhibit C**. The Bankruptcy Court found that the first three claims for relief asserted in the WTT Token Class Action violated the automatic stay, but declined to sanction Mr. Dam at that time. *Memorandum Opinion and Order Regarding Stay and Motion for Order to Show Cause*, filed on September 27, 2021, ECF No. 921. Mr. Dam dismissed his appeal of this Order with prejudice pursuant to the WTT Token settlement. *Stipulated Dismissal of Consolidated Appeals*, *Dam v. Waldron*, U.S. D. Ct. EDWA, Case No. 2:21-cv-00291-SAB, filed on June 28, 2024, ECF No. 65, attached hereto as **Exhibit L** and the *Order Granting Dismissal and Closing File*,

1 *Dam v. Waldron*, U.S. D. Ct. EDWA, Case No. 2:21-cv-00291-SAB, filed on  
2 August 2, 2024, ECF No. 66, included with **Exhibit L**.

3 **4. Mr. Dam Lacked an Objective Good Faith Expectation of Prevailing**

4 Mr. Dam lacked an objective good faith expectation that he would prevail  
5 on:

6 • ECF No. 547 - *Application of WTT Token Holders and Miner Owners*  
7 *for Administrative Expense and for Declaratory Relief* (filed April 10, 2020). The  
8 Court gave Mr. Dam's ad hoc committee an opportunity to prove their claim. They  
9 never did. The lawyer quit, the committee dissolved, and Mr. Dam merely  
10 rehashed arguments and attacked the professionals. The failure to even try to  
11 present evidence betrays bad faith.

12 • ECF No. 592 - *Response of WTT Token Holders and Miners to*  
13 *Trustee's Motion for Order Approving Sale of TNT Facility and Trailer Equipment*  
14 *Free and Clear of Liens* (filed May 7, 2020). Mr. Dam has never presented any  
15 evidence of ownership of the TNT Facility. The objection's timing supports an  
16 inference of bad faith. Mr. Dam knew the Trustee was suing David Carlson to  
17 recover the TNT Facility for the estate's benefit. Yet, he never intervened or  
18 objected to the settlement. He only claimed ownership when the Trustee tried to  
19 sell the facility. He tried to use the Trustee and the estate's resources to recover an  
20 asset for *his* benefit alone.

1           •     AP ECF No. 1 - *Complaint for Breach of Fiduciary Duty;*  
2     *Professional Negligence; Unjust Enrichment* (filed June 5, 2020). The complaint  
3     sued the Trustee for actions taken pursuant to Court Orders. Mr. Dam even  
4     complained about the Carlson settlement, despite not having objected to the  
5     Trustee’s motion for approval of that settlement. He alleged frivolously that PLG  
6     owed him a fiduciary duty. The Court dismissed Mr. Dam’s complaint for failure  
7     to state a claim. *Order Granting Defendant’s Motion to Dismiss, Dam v. Waldron*,  
8     Adv. Proc. No. 20-80020-FBC, filed on September 17, 2020, AP ECF No. 28.

9           •     ECF No. 610 - *Motion to Request Reconsideration of Order*  
10    *Approving Sale of TNT Facility and Trailer Equipment Free and Clear of Liens*  
11    (filed June 5, 2020). This motion was filed late (16 days after entry of the TNT  
12    Sale Order). In this motion, Mr. Dam rehashed unsuccessful arguments previously  
13    made and alleged fraud without evidence. That Court denied this motion. *Order*  
14    *Denying Motion for Reconsideration*, filed on June 18, 2020 ,ECF No. 624.

15           •     ECF No. 626 - *Notice of Appeal and Statement of Election (Order*  
16    *Approving TNT Sale)* (filed June 25, 2020). Mr. Dam had not objected to the TNT  
17    Sale. Instead, an ad hoc committee had objected. Nonetheless, Mr. Dam appealed  
18    the TNT Sale Order, filing his appeal late. The BAP, ruling against him, held that  
19    his allegations against the Trustee and PLG suffered from a “complete failure of  
20    proof” and that his other arguments only rehashed earlier ones. Memorandum,



1 *Dam v. Waldron*, U.S. BAP, 9<sup>th</sup>. Cir., Case No. 20-1156, BAP ECF No. 20-1 at  
2 12, attached hereto as **Exhibit E**.

3 • AP ECF No. 10 - *Amended Complaint for Breach of Fiduciary Duty;*  
4 *Professional Negligence; Unjust Enrichment; Breach of Contract* (filed July 23,  
5 2020). The Court held, “None of Plaintiff’s claims are facially plausible. . . .”  
6 Order Granting Motion to Dismiss, filed on September 17, 2020, ECF No. 24 at  
7 18, ¶ 54, and that Mr. Dam simply disagreed with the Trustee’s exercise of his  
8 business judgment. *Id.*, ECF No. 24 at 14, ¶ 39.

9 • ECF No. 661 - *Objection to Trustee’s (1) Application for Award of*  
10 *Compensation and (2) Motion for an Order Authorizing Payment of Previously*  
11 *Awarded But Unpaid Compensation* (filed August 4, 2004). Mr. Dam claimed that  
12 the Trustee’s fees should not be approved until his frivolous lawsuit against the  
13 Trustee and PLG was resolved.

14 • ECF No. 675 - *Motion to Request Reconsideration of Order Awarding*  
15 *Compensation for Services Rendered Pursuant to 11 USC § 330 or § 331* (filed  
16 August 18, 2020). Mr. Dam only rehashed arguments previously rejected by the  
17 Court. [It was denied] Order Denying Debtor’s Motion for Reconsideration, filed  
18 on August 24, 2020, ECF No. 684 holding that “the Motion raises no new  
19 arguments” and that Mr. Dam’s demand for an itemization of the Trustee’s fees  
20 “places an unnecessary burden on Mr. Waldron” and is not required. *Id.*, at 1,  
21 ¶¶ 2-4.

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1           •     AP ECF No. 18 - *Motion for District Court to Withdraw the*  
2     *Bankruptcy Reference*, Adv. Proc. No. 20-80020 (filed August 24, 2020).

3     Although he requested “an Article III court to protect his individual liberty,” *id.*, at  
4     8:13-14, he wanted out of the Article I court because it might “be more likely to  
5     support any statutory securities laws. . . .” *Id.*, at 9:1-2. In other words, he wanted  
6     to find a Court that was *less likely* to enforce the law. This is an admission of bad  
7     faith. This motion was mooted by the dismissal of the adversary for failure to state  
8     a claim. Order Granting Defendant’s Motion to Dismiss, filed on September 17,  
9     2020, ECF No. 28 at 26, ¶ 31.

10           •     AP ECF No. 19 - *Motion for Leave of Court to Sue Trustee and*  
11     *Counsel* (filed on August 24, 2020). This motion was tied to Mr. Dam’s motion to  
12     withdraw the reference. He had already sued the Trustee in this court. His frivolous  
13     suit against the Trustee concerned the administration of the estate and was  
14     therefore part of the Court’s core jurisdiction. 28 U.S.C. 157(a). There could be no  
15     objective good faith basis to believe that the District Court. This motion was  
16     mooted by the dismissal of the adversary for failure to state a claim. *Order*  
17     *Granting Motion to Dismiss, Dam v. Waldron*, Adv. Case No. 20-80020, filed on  
18     September 17, 2020, ECF No. 298 at 26, ¶ 31.

19           •     AP ECF No. 20 - *Response to Motion of Mark D. Waldron, Pamela*  
20     *M. Egan, and the Potomac Law Group to Dismiss Amended Complaint Pursuant*  
21     *to Fed. R. Civ. P. 12(b)(1) and (6)* (filed August 24, 2020). In this Response, Mr.

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1 Dam tried to buy time by claiming that he would amend his complaint to remedy  
2 the fact that neither the Trustee nor PLG were parties to the contract that he alleged  
3 they breached. Twenty-four days went by without an amendment. The Court then  
4 entered its order dismissing the Complaint, holding that, “[n]one of Plaintiff’s  
5 claims are facially plausible. . . .” *Order Granting Motion to Dismiss, Dam v.*  
6 *Waldron*, Adv. Case No. 20-80020, filed on September 17, 2020, ECF No. 28 at  
7 18, ¶ 54.

8 • AP ECF No. 30 - *Notice of Appeal and Statement of Election* (filed  
9 September 28, 2020) (relating to dismiss of complaint against the Trustee and  
10 PLG). The District Court rejected Mr. Dam’s allegation that the Court acted with  
11 “bias” as well as his frivolous argument that the dismissal should be overturned  
12 because the Court had not included Giga Watt as a defendant in the caption of its  
13 Order. Order Affirming the Bankruptcy Court’s Order Granting Appellees’ Motion  
14 to Dismiss, *Dam v. Waldron*, Case No. 2:20-cv-00351-SAB, filed on July 30,  
15 2021, D.Ct. ECF No. 15 at 9-10. attached hereto as **Exhibit I**. The District further  
16 stated:

17 It is unclear to the Court whether Appellant is arguing  
18 that (1) the Bankruptcy Court should have stayed the  
19 case and refrained from deciding the Motion to Dismiss  
20 because of the Motion to Withdraw or that (2)  
21 Appellant’s Motion to Withdraw indicated his lack of  
22 consent to non-Article III adjudication. . . . ***If it is the  
former, then Appellant’s argument is a non-starter.***  
23 Fed. R. Bankr. P. 5011(c) states that filing a motion for  
24 withdrawal “shall not stay the administration of the case .  
25 . . before the bankruptcy judge except that the

1 bankruptcy judge may stay . . . proceedings pending  
2 disposition of the motion.”

3 But even if it is the latter, the Bankruptcy Court still  
4 properly adjudicated Appellees’ Motion to Dismiss. . . .

5 *Id.*, D.Ct. ECF No. 15 at 5:25-28, 6:1-7, **Exh. I**. (Emphasis added.)

6 • ECF No. 753 - *Objection to Motion (i) Approving the Sale of Moses Lake*  
7 *Equipment and Related Relief, (ii) Approving Bid Procedures (iii) Shortening Time*  
8 *to Object* (filed October 8, 2020). Mr. Dam used the objection to the ML  
9 Equipment Sale to set up another round of abusive litigation against the estate. He  
10 was not a miner and did not have a license to practice law. No one has ever  
11 presented any evidence that the miners sold in the ML Equipment sale belonged to  
12 anyone but Giga Watt. The Court overruled the objection and approved the sale.  
13 *Order (i) Approving the Sale of Moses Lake Equipment, etc.*, filed on October 20,  
14 2020, ECF No. 765.

15 • ECF No. 758 - *Application of WTT Token Holders and Miner*  
16 *Owners for Administrative Expense and for Declaratory Relief* (filed October 15,  
17 2020) (relating to ML Equipment). The fact that no one from Mr. Dam’s ad hoc  
18 committee commenced an adversary proceeding to establish ownership of ML  
19 Equipment, as invited by the Court, suggests that they lacked any evidence tying  
20 their ownership interest the machines located at the debtor’s Moses Lake facilities.  
21 Nonetheless, this did not stop Mr. Dam from appealing the Order approving the  
22 sale.

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1           • ECF No. 769 - *Motion for Stay Pending Appeal of Order (i)*  
2     *Approving the Sale of Moses Lake Equipment and Related Relief, (ii) Approving*  
3     *Bid Procedures*, filed on October 22, 2020. Mr. Dam did not have a good faith  
4     expectation of prevailing on this motion. The Trustee had filed his report that the  
5     sale had closed (ECF No. 776) before Mr. Dam noticed the motion for hearing.  
6     (ECF No. 8310). In denying the motion, the Court stated, “Even if the Motion was  
7     timely filed, Mr. Dam presented no evidence that would justify a stay.” *Order*  
8     *Denying Motion for Stay*, filed on December 11, 2020, ECF No. 836 at 3, ¶ 8. Mr.  
9     Dam did not intend to win the motion. He intended to burden the Court and harass  
10    the Trustee.

11           • ECF No. 770 - *Notice of Appeal and Statement of Election (ML*  
12     *Equipment Sale Approval Order)* (filed October 22, 2020) Mr. Dam lacked an  
13     objective good faith basis to believe that ownership of the ML Equipment was in  
14     bona fide dispute and that therefore the sale should not have been approved until  
15     that dispute was resolved. The District Court pointed out this Court’s findings that:

16                 Only Trustee Waldron had the keys to the buildings  
17                 where the equipment was located; (2) the cryptocurrency  
18                 miners in the Moses Lake facility were labeled “property  
19                 of Giga Watt, Inc.” and that these labels were affixed  
20                 before Trustee Waldron was appointed (3) the serials  
21                 numbers that Appellants provided to try and prove their  
22                 ownership of the mining machines could not be matched  
23                 to the Moses Lake equipment; (4) no financing  
24                 statements referencing liens against the miners were on  
25                 file with the Washington State Department of Licensing;  
                    and (5) Appellants did not try to take to take [sic] control

1 or possession of the miners, despite their claimed  
2 ownership of the equipment.

3 *Order Affirming the Bankruptcy Court's Sale Approval Order, Dam v. Waldron,*  
4 Case No. 2:20-cv-00391-SAB, filed on July 30, 2021, D.Ct. ECF No. 21, attached  
5 hereto as **Exhibit J**. The District Court also held the appeal was moot because the  
6 sale had closed.

7 • D. Ct. ECF Nos. 4 and 14 - Motion to Stay ML Equipment Sale, US D.  
8 Ct. EDWA, *Dam v. Waldron*, Case No. 2:20-cv-00391-SAB, filed on November 2,  
9 2020, ECF No. 4, attached as **Exhibit A**, with supporting memorandum filed  
10 almost a month later, attached as **Exhibit B** without the approximately 300 pages  
11 of exhibits. This was Mr. Dam's second motion to stay the ML Equipment Sale.  
12 He filed it before this court decided the motion to stay that he had filed in this  
13 Court on October 22, 2020, ECF No. 769. Mr. Dam filed this second motion to  
14 stay the ML Equipment sale pending appeal after the sale had closed. Therefore, he  
15 could not have had an objective good faith expectation of prevailing on this  
16 duplicative The District Court dismissed the Motion as moot. *Order Denying*  
17 *Motions as Moot, Dam v. Waldron*, Case No. 2:20-cv-00391-SAB, D. Ct. ECF No.  
18 18, attached hereto as **Exhibit D**.

19 • D.Ct. ECF No. 1 - Class Action Complaint, District Court, Case No.  
20 2:20-cv-00464-SAB (filed on December 16, 2020), attached hereto as **Exhibit C**.  
21 Mr. Dam's filing of this complaint, which violated the automatic stay to the extent  
22 of his first three claims is part of his pattern of claiming that all the assets in this

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1 estate belong to him. *Memorandum Opinion and Order Regarding Stay and*  
2 *Motion for Order to Show Cause*, filed on September 26, 2021, ECF No. 921. The  
3 Court declined to sanction Mr. Dam for this first violation of the automatic stay.

4 • BAP ECF No. 25 - Notice of Appeal (appeal of BAP's affirmance of  
5 TNT Sale Order) (filed March 2, 2021), attached as **Exhibit F**. This appeal was  
6 late. Therefore, Mr. Dam lacked an objective good faith expectation of prevailing.

7 • Ct. App 9th Cir ECF No. 3 - Response to Order to Show Cause (filed  
8 March 30, 2021), attached as Exhibit G. Mr. Dam blamed Federal Express for his  
9 late filing despite the fact that the court of appeals lacks jurisdiction to create  
10 equitable exceptions to the jurisdictional requirement of a timely notice of appeal.

11 *Order, Dam v. Waldron*, U.S. Ct. App. 9<sup>th</sup> Cir., Case No. 21-60016, ECF No. 6,  
12 attached as **Exhibit H**.

13 • ECF No. 1048 - Objection to First and Final Contingency Fee  
14 *Application of the Potomac Law Group PLLC (Perkins Adversary Proceeding)*  
15 (filed on August 22, 2024). Mr. Dam does not have a good faith expectation of  
16 prevailing on his objection to the PLG fees. As set forth in the Potomac Law  
17 Group's Reply to Jun Dam's Objection to the First and Final Contingency Fee  
18 Application of the Potomac Law Group PLLC (Perkins Adversary Proceeding),  
19 filed on August 27, 2024, ECF No. 1052, which the Trustee incorporates herein as  
20 if set forth fully herein, Mr. Dam released the estate of all claims arising from or  
21 related to the facts giving rise to the WTT Token Class Action. The Court held in  
22

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1 the Automatic Stay Order that the facts underlying the WTT Token Class Action  
2 related to and were the same as those underlying the Perkins Adversary. Therefore,  
3 Mr. Dam released the estate of any claim that he owns the settlement proceeds  
4 from the Perkins Adversary.

5 • ECF No. 1049 - *Declaration of Jun Dam in Support of Objection to*  
6 *Contingency Fee Application* (filed on August 22, 2024). In this declaration, Mr.  
7 Dam is evidencing his intent to violate the automatic stay and breach the WTT  
8 Token Settlement Agreement which released the estate of all claims relating to the  
9 Perkins litigation.

10 • ECF No. 1051 - *Objection to Order Awarding Compensation for*  
11 *Services Rendered and Reimbursement of Expenses Pursuant to 11 U.S.C. § 330 or*  
12 *§ 331, and Approving the Payment of Bank Fees* (filed on August 23, 2024) (John  
13 Winslow). Jun Dam and John Winslow tag team the estate. Mr. Winslow joins in  
14 Mr. Dam's frivolous filings. This filing is consistent with Mr. Dam's pattern of  
15 vexatious litigation against the estate, using Mr. Winslow to increase the burden on  
16 the Court and the Trustee.

17 ***5. Mr. Dam Litigated the Automatic Stay Contested Matter and Settled***  
18 ***the Class Action With an Improper Purpose***

19 Mr. Dam's latest gambit, reneging on his release and attacking the  
20 Automatic Stay Order, suggests a long con. Mr. Dam never intended to abide by  
21 the Automatic Stay Order or his release in settlement of the dispute relating to the  
22



Automatic Stay Order. *See* Stipulation of Settlement, District Court, Case No. 2:20-cv-464-SAB, filed on November 29, 2023, D.Ct. ECF No. 61-4, attached hereto as **Exhibit K** (without Stipulation's exhibits) and Stipulated Dismissal of Consolidated Appeals, District Court, Case No. 2:21-cv-00291-SAB, filed on June 28, 2024, D.Ct. ECF No. 65, and Order Granting Dismissal and Closing File, filed on August 2, 2024, D.Ct. ECF No. 66, attached hereto together as **Exhibit L**.

This Court declined to sanction Mr. Dam or his attorneys for commencing the WTT Token Class Action in violation of the automatic stay. The Court reasoned that the issue had not yet been decided. However, now that the Automatic Stay Order is final and nonappealable and Mr. Dam granted a release, the issue of ownership is clear. Mr. Dam intends to violate the automatic stay generally, the Automatic Stay Order specifically, and his release of the estate.

***6. Mr. Dam Uses Lawyers to Tee Up his Frivolous Litigation; Then He Unleashes the Abuse Pro Se***

An attorney filed the administrative claim and objection relating at the beginning of the TNT Facility contested matter, but that attorney resigned shortly before Mr. Dam filed a torrent of frivolous filings relating to the TNT Sale: motion for reconsideration (ECF No. 610), objection to the Trustee's fees (ECF No. 661), lawsuit (Adv. Proc. No. 20-80020, AP, ECF No. 1), opposition to the Trustee's motion to dismiss the lawsuit (*id.*, AP ECF No. 20), motion to withdraw the

1 reference (*id.*, ECF No. 18), motion for leave to sue and two appeals (*id.*, AP ECF  
2 No. 19).

3 Mr. Dam worked with a group of other pro se “ad hoc” committee members  
4 to tee up his abusive litigation regarding the ML Equipment.

5 Mr. Dam worked with an attorney in the WTT Token class action and in  
6 unsuccessfully contesting the Trustee’s motion to impose the stay and to enjoin the  
7 WTT Token Class Action

8 Consistent with his pattern, Mr. Dam is working with an attorney to tee up  
9 his latest round of abusive litigation. An attorney filed the objection to PLG’s fees  
10 on the now familiar ground of an “ownership” interest. (ECF No. 1048) When this  
11 objection is overruled, the Trustee expects that Mr. Dam will move for  
12 reconsideration. He will appeal. He will follow through on his threat to sue the  
13 Trustee (again) with frivolous allegation. He will move to withdraw the reference  
14 again in the hope of finding a judge who he hopes would be less likely to enforce  
15 the law.

16 ***7. Mr. Dam Has Caused Needless Expense to this Estate and Has Posed***  
17 ***an Unnecessary Burden on the Courts and Their Personnel.***

18 Mr. Dam’s actions have cost the estate \$141,833 in fees paid to Counsel  
19 during the Chapter 7 case. Of the fees paid to counsel, \$94,433 or 38%, are  
20 attributable to Mr. Dam’s post-conversion frivolous claims, and 19% are attributed  
21 to Mr. Dam’s litigation with an improper purpose relating to the Automatic Stay  
22

1 Order, the related preliminary injunction adversary proceeding, and the related  
2 appeals for a total of 58% of fees. The Trustee's counsel has incurred \$150,000 in  
3 accrued but unpaid fees relating to Mr. Dam's vexatious litigation in the Chapter  
4 11 case. *See* Egan Declaration, filed herewith. His frivolous and bad faith claim to  
5 ownership of the Perkins settlement proceeding threatens to significantly increase  
6 these fees, which will deplete the resources of this estate to the detriment of  
7 creditors.

8 He has also delayed this case. The Trustee and his counsel were actively  
9 investigating and developing the claims against Perkins while simultaneously  
10 defending the estate (and themselves) against his frivolous, harassing and  
11 repetitive filings. While the Trustee was able to complete both tasks, it necessarily  
12 created delay by consuming bandwidth.

13 Mr. Dam has burdened this Court, the District Court, the BAP, and the Ninth  
14 Circuit with his frivolous, harassing, and repetitive filings. He filed six appeals,  
15 four of which he lost, and two of which he dismissed pursuant to his settlement  
16 with the Trustee on which he now seeks to renege.

17 ***8. The Scope of the Requested Pre-Filing Order is Narrowly Tailored.***

18 Any pre-filing order must be "narrowly tailored to the vexatious litigant's  
19 wrongful behavior." *Molski*, 500 F.3d at 1061. Generally, a court must direct a pre-  
20 filing order at the particular conduct it has found vexatious. *See generally Molski*,  
21 500 F.3d at 1061.

These terms will generally address the particular burdens imposed by Mr. Dam's frivolous pleadings: that they have largely lacked any factual or legal basis. These terms will allow the court to determine quickly whether the issues Mr. Dam wishes to raise have merit and it will relieve the parties from the burden of having to respond to any unmeritorious arguments, saving their resources as well as those of the estate.

## IV. CONCLUSION

Mr. Dam has been afforded leeway as a *pro se* litigant. Over time, however, a pattern has emerged showing an intent to harass the Court and this process.

Mr. Dam's tactics are to object with a claim of ownership and then, rather than prove ownership, file multiple motions and appeals, rehashing the same arguments over and over in a pattern of escalating disregard for the dignity of this Court and the bankruptcy process.

After approving the TNT Sale, the Court provided that its Order was without prejudice to the WTT token/owner ad hoc committee's pending administrative claim. No effort was made to present evidence supporting that claim. Instead, the lawyer quit, the committee dissolved, and Mr. Dam filed duplicative frivolous pleadings. After the ML Equipment sale, the Court provided that the proceeds would be set aside pending proof of ownership. The Court also issued an order converting Mr. Dam's administrative claim to an adversary. He only had to pay the \$350 filing to get started. No adversary was ever opened.

1 This conduct raises the inference that Mr. Dam is not trying to establish  
2 ownership of anything. He is trying to put as much burden on this Court and the  
3 Trustee as possible.

4 Now he is threatening to unleash another round of litigation that will violate  
5 the automatic stay generally, the Automatic Stay Order specifically, and the release  
6 provided in the WTT Token Settlement Agreement.

7 WHEREFORE, PLG respectfully requests that the Court grant this Motion  
8 and grant such other and further relief as the Court deems appropriate and just.

9 Dated: September 3, 2024

POTOMAC LAW GROUP PLLC

10  
11 By: /s/ Pamela M. Egan  
Pamela M. Egan (WSBA No. 54736)

12 *Attorneys for Mark D. Waldron, Chapter*  
13 *7 Trustee*